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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
(HONORABLE LONNY R. SUKO)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STEVEN KARL RANDOCK, SR.,

Defendants.

)
) NO. CR-05-180-LRS
)
) SENTENCING MEMORANDUM
) RE: SECTION 3553 FACTORS
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INTRODUCTION

This Memorandum and the accompanying materials are submitted in order to assist the Court in fashioning a reasonable and appropriate sentence for Steven Randock. For the reasons set forth below and based on the information and materials provided to the Court and the expected testimony and arguments at the sentencing hearing, counsel for Mr. Randock asks the Court to impose a sentence of home confinement.

1 Post-Booker, the Court must choose a reasonable sentence based on the factors set
2 forth in 18 U.S.C. § 3553(a). The sentence must be “sufficient, but not greater than
3 necessary, to comply with the purposes of sentencing set forth in paragraph 2,” namely: just
4 punishment, adequate deterrence, protection of the public from further crimes by the
5 defendant, and to provide the defendant with medical care or other treatment in the most
6 effective manner. *See* 18 U.S.C. § 3553(a). The sentence proposed by counsel for Mr.
7 Randock is an option of the Rule 11(c)(1)(C) plea agreement, and in addition takes into
8 account all of the section 3553(a) factors to accomplish the purposes of sentencing.
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12 **1. The History and Characteristics of the Defendant, § 3553(a)(1)**

13 **Mr. Randock’s Lifetime of Hard Work and Good Works**

14 Steven Randock has devoted his life to raising his children, helping his family,
15 friends, and being a contributor to his community. Mr. Randock grew up in New Jersey,
16 graduated high school and joined the Air Force. He relocated to Spokane after being
17 stationed here in 1961. Mr. Randock has never abandoned his roots, maintaining lifelong
18 relationships with childhood and high school friends, former partners and competitors,
19 neighbors, relatives, former employees and spending precious time with his neighbor and
20 friend Jay Scott, who suffers from Alzheimer’s. He also has contributed greatly to the
21 Spokane area community, as an employer over the past 40+ years, as well as providing
22 affordable housing to his customers. He still has the respect and affection of thousands of
23 past customers, hundreds of employees, factory owners and representatives, suppliers, and
24 vendors.
25
26

1 The most compelling evidence of Mr. Randock's history, character, and conduct is
2 provided by those who know him best. A collection of letters about Mr. Randock is being
3 presented to the Probate Officer for delivery to the Court. Included are representative letters
4 from people from all walks of life, who have known Mr. Randock in different capacities.
5 Their heartfelt stories describe an extraordinary man, a cherished friend, a beloved and
6 trusted family member of great integrity, kindness and generosity.
7

8 Some of the writers' on behalf of Mr. Randock's character are listed below:
9

10 **Joy Lynn Wirsh**, friend and fellow grandparent

11 **Lloyd Torgerson**, long time friend

12 **Sharon Torgerson**, retired teacher and long time friend

13 **Kirk Downing**, former employee and Real Estate Agent has known Mr. Randock for
14 more than 10 years, writes of the integrity, ethics and professionalism of Mr. Randock.

15 **John Lenertz**, friend, Washington State Certified Real Estate
16 Teacher/Instructor

17 **Edith Lenertz**, friend

18 **Mike Jeffries**, long time friend and former business partner writes about and a
19 financially failing business

20 **Leanah Jeffries**, long time friend and wife of Mr. Jeffries writes about the former
21 partnership

22 **Janelle Randock**, Daughter-in-Law, writes about Mr. Randock's reputation in the
23 community

24 **Larry Randock**, Son who writes about his father's health conditions

25 **Jeff Watson**, friend and business associate writes about Steve Randock's integrity

26 **Valerie Scott**, neighbor and Friend writes about Steve Randock's interactions
with her husband, who has Alzheimer's Disease

Don Hertz, business associate and friend

1 **John Sherrick**, Attorney and friend provides many examples of how Mr. Randock
helps him

2 **James Weber**, business associate

3 **Steven Randock Jr.**, Mr. Randock's son

4 **Daryl Skaife**, Mrs. Randock's son

5 **Jendi and Britney Lewis**, Grandchild

6 **Mike Tracy**, friend and attorney

7 **Jay Torgerson**, friend for over 40 years

8 **Arlene (Sue) Pederson**, Dixie's Randock's mom

9
10 2. **Mr. Randock's Health**

11 Mr. Randock's health problems are serious. Of most concern is his history of heart
12 and stroke problems.

13
14 Mr. Randock has had three heart attacks, two open heart surgeries (the last April 28,
15 2008), two surgeries for kidney stones, bowel problems (twisted), numerous dizzy spells,
16 two confirmed strokes within the past 16 months and lately severe emotional problems due
17 to stress due to this legal situation. It is likely that if he is put in prison that his medical
18 problems will increase and will require extensive medical attention, which is very expensive
19 and perhaps fatal to Mr. Randock.

20
21 As recently as October 2006, Mr. Randock suffered a stroke while at home watching
22 TV. He was unable to talk or communicate while his right arm flailed. Fortunately,
23 Mr. Randock was with his wife, Dixie Randock who immediately put him into their vehicle
24 and rushed him to Holy Family Hospital, likely saving his life.

25
26 Mr. Randock's other health problems are:

- 1 · Transient Ischemic Attacks (TIA)
- 2 · Coronary Artery Disease (CAD)
- 3 · Cerebrovascular accident (CVA)
- 4 ·
- 5 · Prior Myocardial Infraction

6 Treatments for those conditions include:

- 7 · Regular monitoring by a cardiac specialist
- 8 ·
- 9 · Diet that is low in fat and cholesterol
- 10 · Constant monitoring of his blood pressure with medication or other medical
adjustments if needed
- 11 ·
- 12 · Over 10 different types of daily medications, which must be continually
monitored for effectiveness, toxicity prevention, balance and to maintain his overall health.

13 Mr. Randock's current medications are:

14 9:00-10:00 A.M.:

15 Pentoxifylline- 400 MG
16 Lisinopril-10 MG
17 Clopidogrel- 75 MG
18 Timolol- 10 MG
19 Diazepam- 5 MG

20 5:00 P.M.:

21 Pentoxifylline-400 MG
22 Diazepam- 5 MG (take some nights-not others-depending on stress levels)
23 Tamsulosin-0.4 mg. (must take after food)

24 11:00 P.M.:

25 Pentoxifylline- 400 MG
26 Diazepam- 5 MG---lately I have been taking 2
Simvastatin- 80MG
Verapamil- 180 MG
Asprin- 325 MG---one or 2

Nitrostat- .4 MG-- As needed

1 Mr. Randock's treating physician is Jeffery White, M.D., of the Group Health
2 Northwest. The PSR author was provided 241 pages of medical records from Mr. Randock
3 dating from September 15, 1983 to April 1, 2008. Updated medical records have been
4 received because of Mr. Randock's recent open heart surgery.

5
6 Mr. Randock's present medical condition is frail. Dr. White, in a chart note dated
7 March 19, 2008, described that Mr. Randock is at "significant risk for [an] acute vascular
8 event, whether cardiac or stroke" and that he would need prompt medical intervention that
9 would not be available if he were incarcerated. The chart note state, in part,
10

11 I am concerned that excessive heart rate blockade may be a major
12 contributor to his fatigue, although his current social stressors no doubt
13 play a significant role.

14 ...

15 [T]here is no denying that he is at significant risk for acute vascular event,
16 whether cardiac or stroke.

17 He expresses concern that if incarcerated, should another vascular event
18 occur, his ability to get prompt access to advanced medical intervention
19 would put him at increased risk, and I would tend to agree, particularly
20 given how well rapidly thrombolytics would need to be administered if he
21 had a significant CVA.

22 In a more recent chart note dated April 1, 2008, Dr. White explains Mr. Randock
23 would be "grave danger" if he were incarcerated during another heart attack or stroke,
24 stating,
25

26 I am in agreement with his restarting Plavix for maximal protection against
recurrent CVA. I am concerned that if Steve was incarcerated, his life
would be grave danger if he should have another heart attack and
particularly another stroke, since in that environment, he would not have an
attendant caregiver to help some and appropriate personnel. With the
stroke, he was unable to communicate and make his problem known, and
required a caregivers help to receive timely treatment. Serving his
symptoms under home monitoring with a 24-hour caregiver in attendance
would be much preferred. His wife would be the best caregiver in that

1 situation as she knows him the best, and is intimately familiar with his past
2 symptoms when he had his heart attack and cerebrovascular accident.
3 Traditional incarceration would therefore increase his risk for untimely
4 death or increase morbidity due to another vascular event.

5 Mr. Randock's Cardiac Surgeon, Neal K. Worrall, M.D., wrote about Mr.
6 Randock in a letter dated May 29, 2008, to this Court, in part, as follows:

7 "He has a long standing history of coronary artery disease and also has
8 multiple other chronic medical issues such as hypertension and prior
9 strokes. He underwent a fairly involved reoperative bypass surgery
10 approximately one month ago and is making a slow but steady recovery ...
11 He takes multiple chronic medications and still needs to spend a fair
12 amount of time over the next few months recovering from his second heart
13 surgery ... I would advocate that Mr. Randock serve an appropriate period
14 of home confinement because of medical reasons as detailed above."

15 Mr. Randock's Cardiologist, John P. Everett, M.D., in a letter dated June
16 2, 2008, to this Court wrote:

17 "Mr. Randock's medical conditions are permanent and thus, he will be on
18 these medications indefinitely. I am not sure that a moderately complicated
19 medical regimen in a patient with multiple chronic problems can be
20 adequately managed if he is incarcerated.

21 Mr. Randock's Cardiologist, Jeffrey R. White, M.D., in a letter dated June 3, 2008,
22 wrote:

23 "I do think that there is concern that an acute cerebrovascular event would
24 not be recognized in time in jail or in prison to get him to an emergency
25 room within the 3-hour window necessary to give thrombolytic therapy. As
26 such, I am going to reverse my statement of yesterday and state that, in my
opinion, it would best for this patient to remain under the observation of
family members; that is to say, in a home care situation, so that in the event
of an acute stroke, an ambulance can be urgently called to get him to the
emergency room for appropriate therapy."

These chart notes and Mr. Randock's prescription list are attached.

1 Mr. Randock's age of 69 compounds his problems. The National Institute of
2 Corrections ("NIC"), which is part of the Department of Justice, has recognized that first-
3 time offenders over the age of 50 face traumatic problems in prison that "accelerate their
4 aging processes to an average of 11.5 years older than their chronological ages."
5
6 *Correctional Health Care, Addressing the Needs of Elderly, Chronically Ill, and Terminally*
7 *Ill Inmates*, U.S. Department of Justice, National Institute of Corrections, 2004 ed., p.10
8 (emphases added). The NIC has further recognized that first-time offenders over the age of
9 50 "are likely to have problems adjusting to prison since they are new to the environment,
10 which will cause underlying stress and probable stress-related health problems." Id.
11

12 Some of the factors which speed the aging process for inmates over 50 include the
13 amount of stress experienced by new inmates trying to survive the prison experience
14 unharmed, efforts to avoid confrontations with correctional staff and fellow inmates, and
15 financial stress related to the inmate's legal, family and personal circumstances. This type
16 of prisoner is also easy prey for more experienced predatory inmates. This NIC study is
17 available online at the NIC website, ninic.org.
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20 **3. The Nature of the Offense, § 3553(a)(1)**

21 Mr. Randock has expressed his remorse and his acceptance of responsibility and has
22 never wavered from them.
23

24 Most stunning about the nature of the offense is that it is completely out of character
25 for Mr. Randock. The letters submitted to the Court attest to his lifelong commitment to
26 integrity in business dealings and his thoughtfulness and generosity to others. Individuals
who are fundamentally dishonest and/or motivated by greed do not achieve the level

1 of respect in the business world, or by former competitors, employees and customers. Their
2 own words demonstrate that his offense conduct is an aberration in all respects.

3
4 **4. Sentencing Guidelines Considerations, § 3553(a)(3), (4), (5), and (6)**

5 The Government and the Defendant agree that the correct sentence is to be 36
6 months. Mr. Randock's serious health problems and the risk to his life posed by
7 incarceration warrant home detention under U.S.S.G. §5H1.4, which reads in pertinent part,
8

9 "Physical condition or appearance, including physique, is not ordinarily
10 relevant in determining whether a sentence should be outside the applicable
11 guideline range. However, an extraordinary physical impairment may be
12 reason to impose a sentence below the applicable guideline range, e.g., in
13 the case of a seriously infirm defendant, home detention may be as efficient
14 as, and less costly than, imprisonment."

15 In determining whether an "extraordinary physical impairment" under
16 U.S.S.G. §5H1.4 should result in a downward variance the Ninth Circuit follows the two step
17 process adopted by the Tenth Circuit in United States v. Slater, 971 F.2d 626, 635 (10th Cir.
18 1992):

19 "[T]he district court should first make a factual finding to decide whether
20 [the defendant's] physical and mental disabilities constitute "an
21 extraordinary physical impairment." United States v. Carey, 895 F.2d 318,
22 324 (7th Cir. 1990). If the court so finds, it should then consider whether
23 the condition warrants a shorter term of imprisonment or an alternative to
24 confinement. Id."

25 United States v. Martinez Guerrero, 987 F.2d 618, 620 (9th Cir. 1993). In making the factual
26 findings the "court may consider any number of circumstances." Id. The Bureau of Prisons'
ability to accommodate a physical impairment is one factor. "But it is not the only factor."
Id.

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5. **Restitution, § 3553(a)(7)**

The Government and the Defendant agree that the no restitution should be imposed.

6. **The Purposes of Sentencing, 18 U.S.C. § 3553(a)(2)**

Section 3553(a) provides that “[t]he court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” Paragraph (2), in turn directs the court to consider:

(2) the need for the sentence imposed--

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

A sentence of home confinement is sufficient to achieve the purposes of sentencing set forth in section 3553(a)(2).

A. **Seriousness of the Offense, Promoting Respect for the Law, and Just Punishment**

Home confinement is not an easy sentence. It is restrictive and punitive. Mr. Randock will be punished every day that he is denied to travel outdoors, visit friends, or enjoy normal freedom.

Mr. Randock’s punishment began in August 11 2005, when his home and offices were served with search warrants. Since then, he has been punished by enormous stress, including but not limited to financial loss, but more important what is most precious to him

1 other than his family – his reputation. Mr. Randock and his family daily endure public
2 humiliation from the media attention, and when they come into contact with the people of
3 the relatively small community in which they live, when they read another story in the local
4 or national press about Mr. Randock’s transgressions. Mr. Randock constantly and deeply
5 has experienced this punishment to his honor.
6

7 **B. Adequate Deterrence**

8 Incarceration of Mr. Randock certainly is unnecessary to deter him. Nor is it
9 necessary to deter others. It will be understandable to the public that a sentence 3 year of
10 home confinement plus 3 additional years of supervised release, in addition to the 3 years of
11 pre-trial supervised release limiting his activities and movement beyond Eastern
12 Washington, **nine years total**, is punitive for a 69 year old, non-violent, first offender
13 suffering the array of health problems experienced by Mr. Randock and who otherwise has
14 led an exemplary life.
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19 **C. Protection of the Public**

20 The chances of Mr. Randock recidivating are nil. That is so for many reasons. Mr.
21 Randock’s conduct occurred under unique circumstances, was an aberration, and cannot
22 reasonably be expected to recur. Mr. Randock would not possibly risk his health by
23 engaging in any conduct that could lead to imprisonment. Mr. Randock statistically is
24 among the least likely to recidivate. According to a recent study by the United States
25 Sentencing Commission, only 3.6% of offenders who have zero criminal history points
26 recidivate by being convicted of another criminal offense. *See*

1 http://www.ussc.gov/publicat/Recidivism_General.pdf at 23. An offender of Mr. Randock's
2 age is even less likely to recidivate than a younger offender. *See id.* at 28.

3 **D. Providing the Most Effective Medical Care**

4 Section 3553(a)(2)(D) requires the court to fashion a sentence that will provide necessary
5 medical care to the defendant "in the most effective manner." We have already addressed
6 Mr. Randock's serious health problems and the risks imposed by incarceration. Allowing
7 Mr. Randock to receive medical care and supervision while in home confinement will allow
8 continuity in his treatment by physicians who are familiar with his myriad of health
9 problems. It will avoid dangerous experimentation with his drug regimen. It will increase
10 his chances of survival by preventing the stress to which he would be exposed by
11 imprisonment. It will also spare the government the expense of Mr. Randock's medical
12 care, which could be enormous if he suffers another heart attack, stroke, or other serious
13 event. *See* U.S.S.G. § 5H1.4 (policy statement noting that it is appropriate for court to
14 consider whether home detention is less costly than imprisonment in the case of a seriously
15 infirm defendant).
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20 **CONCLUSION**

21 Although there are many reasons for the option of home detention in this case, Mr.
22 Randock's health problems, the risks to his health posed by incarceration, and the
23 availability of more effective medical care in the community *alone* warrant a variance. See
24 United States v. Spigner, 416 F.3d 708, 712 (8th Cir. 2005) (post-Booker remand for
25 resentencing of two defendants in order to allow consideration of downward variance from
26 Guidelines based on their age, health, and appropriate medical care). These factors of

1 health, when considered with the other factors in section 3553(a), overwhelmingly support
2 the reasonableness of a sentence of home confinement.

3 Accordingly, counsel for Mr. Randock asks the Court for the option in the plea
4 agreement, of 36 months, which allows a sentence of home confinement. This sentence
5 achieves the purposes set forth in 18 U.S.C. § 3553(a), considering all of the section 3553(a)
6 factors as applied to this case, especially:

- 7 (1) Mr. Randock's heart condition and other health problems;
- 8 (2) The serious risk to Mr. Randock's health posed by imprisonment;
- 9 (3) The availability of more effective medical care to Mr. Randock in the
10 community rather than in the Federal Bureau of Prisons;
- 11 (4) Mr. Randock's age;
- 12 (5) Mr. Randock's lack of any criminal history;
- 13 (6) The aberrant nature of the offense conduct;
- 14 (7) The absence of any need to imprison Mr. Randock in order to protect the
15 public or deter him from engaging in future criminal conduct; and

16
17 (8) a long sentence of 36 months home confinement, forfeiture, also includes the 3
18 years of pre-trial supervision he has already completed without a single violation, followed
19 with 3 years of supervised released which totals **nine years of punishment**, which society
20 would reasonably see as sufficiently unpleasant and restrictive that it will serve to deter
21 others and punish Mr. Randock.

22 RESPECTFULLY SUBMITTED this 5th day of June, 2008.

23
24 WALDO, SCHWEDA, & MONTGOMERY, P.S.

25
26 By: /s/ PETER S. SCHWEDA

Peter S. Schweda, WSBA #7494

Attorney for Defendant Steven Karl Randock, Sr.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed a true and correct copy of the foregoing Sentencing Memorandum Re: Section 3553 Factors, by delivering same to each of the following attorneys of record, as follows:

George JC Jacobs, III usa-wae-gjacobs@usdoj.gov